DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance, Securities, and Banking, pursuant to the authority set forth in section 125 of the Insurance Trade and Economic Development Amendment Act of 2000, effective April 3, 2001 (D.C. Law 13-265; D.C. Official Code § 31-2231.25)(2001), hereby gives notice of the adoption of the following amendments to section 5000 of Chapter 50 (Unfair Trade Practices) of Title 26 (Insurance) of the District of Columbia Municipal Regulations. The amendments will modify the permissible reasons for which an insurer may non-renew or cancel a policy of homeowners' insurance, and for the use of claims history information.

A notice of the proposed rules was published in the *D.C. Register* on July 27, 2007 (54 DCR 7262). No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Section 5000 of Chapter 50 (Unfair Trade Practices) of Title 26 (Insurance) of the District of Columbia Municipal Regulations is amended to read as follows:

5000 PERMISSIBLE REASONS FOR NON-RENEWAL/CANCELLATION AND USE OF CLAIMS HISTORY INFORMATION

5000.1 An insurer shall not refuse to renew a policy of homeowners' insurance solely due to claim or loss frequency unless there have been two (2) or more claims during the preceding three (3) year period. For the purposes of this subsection, an insurer shall not consider:

(a) The first claim for a loss caused by weather, unless the insurer can provide evidence that the insured unreasonably failed to maintain the property and such failure to maintain contributed to the loss;

(b) Any claim that was reported to the insured's agent or insurer as an inquiry for which no payment was made by the insurer;

(c) A loss for which there was no investigation or other claim activity; or

(d) Any losses caused by a catastrophic event. For the purposes of this paragraph, the term "catastrophic event" means a manmade or natural event that causes twenty-five million dollars ($25,000,000) or more in insured property losses and affects multiple property and casualty policyholders or insurers.

5000.2 An insurer shall not refuse to renew a policy of homeowners' insurance solely because of damages requiring repairs that are discovered during a renewal or loss inspection, unless the insurer has allowed the insured a reasonable time-frame in which to repair the damages.

5000.3 An insurer shall comply with the rate making standards of section 3 of An Act to provide for regulation of certain insurance rates in the District of Columbia, and for other purposes, approved May 20, 1948 (62 Stat. 243; D.C. Official Code § 31-2703 (2001)) with respect to any increase in the premium on a policy of homeowners' insurance that is due to claim or loss frequency, including any policy surcharge, movement between classes or tiers, or the removal or reduction of a discount. All such increases in premium shall be consistent with the insurer's filed rate plan.

5000.4 An insurer shall provide a notice to its homeowners' insurance policyholders that the insurer considers claims history in determining whether to renew the policy. Such notice may be on the declarations page or on a separate notice that accompanies the policy so long as the notice is conspicuous and includes the following statement: "Your insurer may consider your claims and loss history when determining whether to renew your policy."

5000.5 Anytime an insurer attempts to cancel or non-renew a policy of homeowner's insurance based on an insured's claims or loss history, the insurer shall specify the reasons for such action and such reasons shall include the date of the claim or loss, the amount of the claim or loss, the type of insurance applicable to the claim or loss, the name of the insurer of the claim or loss, and a brief statement of the circumstances that caused the claim or loss. Such specification of reasons shall include enough information so that the insured can have an adequate basis for refuting the accuracy of any claim or loss history specified as reasons for the cancellation or non-renewal decision of the insurer.

5000.6 An insurer may refuse to renew a policy of homeowners' insurance due to claim or loss frequency based upon standards more restrictive than those set forth in this section if, at the time of policy issuance or renewal, the insurer provided the insured with a conspicuous, written copy of the more restrictive underwriting standards upon which the insurer proposes to base its non-renewal decisions, and an explanation of how the more restrictive underwriting standards differ from those established by any District law or regulation.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 07-09
Z.C. Case No. 07-09
(Text Amendments – 11 DCMR)
(Exemption from Certificate of Occupancy Timing Requirements)
September 10, 2007

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01, and having held a public hearing and referred the proposed amendments to the National Capital Planning Commission ("NCPC") for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of adoption of the following amendments to §§ 1706.13 and 1706.23(g) of the Zoning Regulations (Title 11 DCMR).

Subsection 1706.13 governs the issuance of certificates of occupancy for projects within a Downtown Development Overlay District Housing Priority Area that either contain non-residential and required residential uses or have allocated their residential requirement through a combined lot development. The provision disallows the issuance of a certificate of occupancy for the non-residential use until a certificate of occupancy has been issued for the required residential use or an escrow is funded. Similarly, § 1706.23(g) provides that a certificate of occupancy may not be issued to a development that has reduced its residential requirement through constructing affordable housing offsite until a certificate of occupancy is issued for the affordable housing created. The text amendments permit an exception to both provisions when the required residential use is being allocated to or the affordable housing is being constructed on District-owned property.

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("*DCR*") on August 10, 2007, at 54 *DCR* 7769. The Commission took final action to adopt the amendments at a public meeting on September 10, 2007. This final rulemaking is effective upon publication in the *D.C. Register*.

Setdown, Public Hearing Notice, Comment, and Public Hearing

The Office of Planning ("OP") initiated this rulemaking by filing a report dated March 29, 2007. At its April 9, 2007 public meeting, the Commission set down the case for a public hearing, and

authorized publication of the text suggested by the OP in its report. The text proposed by OP would have limited the exception to District property located in the Old Convention Center Site.

The Commission held a public hearing on the proposed text amendments on July 16, 2007. At that hearing, the Office of Planning recommended that the proposed amendments apply to all District property that has accepted a residential requirement or upon which affordable housing is being or will be constructed. The Commission agrees and took proposed action to approve the broader text amendment recommended OP.

Relationship to the Comprehensive Plan

The amendments are not inconsistent with the Comprehensive Plan, and are fully consistent with the following elements of the Comprehensive Plan:

- § 1708.12, Leveraging Public Development Sites, which recommends using the "former Washington Convention Center site to implement key objectives and policies of the Central Washington Area Element, especially with respect to land use and urban design;" and

- § 1711.4, Metro Center/Retail Core, which provides "the old Convention Center site offers an opportunity to improve the connection between the two areas and create an expanded Central Washington shopping district for the region."

Notice of Proposed Rulemaking

A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 10, 2007, at 54 DCR 7769, for a 30-day notice and comment period. No comments were received.

The proposed rulemaking was also referred to NCPC pursuant to § 492 of the District of Columbia Charter. NCPC, by report dated August 3, 2007, found that the proposed text amendment would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan.

The Office of the Attorney General determined that this rulemaking meets its standards of legal sufficiency.

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on September 10, 2007. No changes were made to the text published in the notice of proposed rulemaking.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to Chapter 17 of the Zoning Regulations, Title 11 DCMR:

Subsections 1706.13 and 1706.23 of § 1706 RESIDENTIAL AND MIXED USE DEVELOPMENT are amended to read as follows (added wording is in **bold and underlined**):

1. Subsection 1706.13 is amended to read as follows:

   If a development project includes both nonresidential uses and required residential uses, whether on the same lot or in a combined lot development, no certificate of occupancy shall be issued for the nonresidential space until either:

   (a) A certificate of occupancy has been issued for the residential space; or

   (b) An escrow account has been established and funded in a combined lot development pursuant to § 1708.2.

   This provision shall not apply to nonresidential gross floor area resulting from a combined lot development that allocated an equivalent amount of the property's required residential uses to one or more lots then owned by the District government.

2. Subparagraph (g) of subsection 1706.23 is amended to read as follows:

   (g) No certificate of occupancy shall be issued for the nonresidential development within the DD Overlay District until a certificate of occupancy has been issued for the affordable dwelling units**, unless the affordable dwelling units are being constructed on property owned by the District of Columbia**.

Vote of the Zoning Commission taken at its public hearing on July 16, 2007, to **APPROVE** the proposed rulemaking: **3-0-2** (Anthony J. Hood, John G. Parsons, and Michael G. Turnbull to approve; Carol J. Mitten and Gregory N. Jefferies not present, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on September 10, 2007, by a vote of **4-0-1** (John G. Parsons, Michael G. Turnbull, Anthony J. Hood and Gregory N. Jeffries (by absentee ballot) to adopt; Carol J. Mitten, having not participated, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is, on OCT 12 2007.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 07-09
Z.C. Case No. 07-09
(Text Amendments – 11 DCMR)
(Exemption from Certificate of Occupancy Timing Requirements)
September 10, 2007

The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.